

1 DAVID R. ZARO (BAR NO. 124334)  
MICHAEL R. FARRELL (BAR NO. 173831)  
2 ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
3 515 South Figueroa Street, Ninth Floor  
Los Angeles, California 90071-3309  
4 Phone: (213) 622-5555  
Fax: (213) 620-8816  
5 E-Mail: dzaro@allenmatkins.com  
mfarrell@allenmatkins.com

6 JEFFREY R. PATTERSON (BAR NO. 126148)  
7 TED FATES (BAR NO. 227809)  
ALLEN MATKINS LECK GAMBLE  
8 MALLORY & NATSIS LLP  
501 West Broadway, 15th Floor  
9 San Diego, California 92101-3541  
Phone: (619) 233-1155  
10 Fax: (619) 233-1158  
E-Mail: jpatterson@allenmatkins.com  
11 tfates@allenmatkins.com

12 Attorneys for Receiver Thomas A. Seaman

13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15 SOUTHERN DIVISION

16 SECURITIES AND EXCHANGE  
COMMISSION,

17 Plaintiff,

18 v.

19 MEDICAL CAPITAL HOLDINGS,  
20 INC.; MEDICAL CAPITAL  
CORPORATION; MEDICAL  
21 PROVIDER FUNDING  
CORPORATION VI; SIDNEY M.  
22 FIELD; and JOSEPH J.  
LAMPARIELLO,

23 Defendants.  
24

Case No. 8:09-cv-0818-DOC (RNBx)

**DECLARATION OF THOMAS A.  
SEAMAN IN SUPPORT OF MOTION  
FOR ORDER:**

**(A) AUTHORIZING RECEIVER TO  
AUCTION PERSONAL PROPERTY  
LOCATED AT 15101 RED HILL  
AVENUE, TUSTIN, CA; AND  
(B) APPROVING AGREEMENT  
WITH AUCTIONEER**

Date: December 28, 2009  
Time: 8:30 a.m.  
Ctrm: 9D  
Judge: Hon. David O. Carter

1 I, Thomas A. Seaman, declare as follows:

2 1. I am the Court-appointed permanent receiver for defendants Medical  
3 Capital Holdings, Inc., Medical Capital Corporation, Medical Provider Funding  
4 Corporation VI, and their subsidiaries and affiliates (the "Receivership Entities"). I  
5 make this Declaration in support of the Motion for Order (A) Authorizing Receiver  
6 to Auction Personal Property Located at 15101 Red Hill Avenue, Tustin, CA; and  
7 (B) Approving Agreement with Auctioneer ("Motion"). The following facts are  
8 within my knowledge and if called as a witness I would testify to them under oath.

9 2. The Receivership Entities purchased the office building and land  
10 located at 15101 Red Hill Avenue, Tustin, California ("Property") on May 28, 2008  
11 and moved their headquarters (previously located in Anaheim) to the Property. The  
12 purchase price was \$15.5 million, which was financed in part by a \$7.75 million  
13 loan from Loan Oak Fund, LLC ("Loan Oak"). Loan Oak holds a first priority deed  
14 of trust on the Property. The Receivership Entities created 15101 Red Hill  
15 Holdings, Inc. ("15101 Red Hill") to hold title to the Property, and had MCC lease  
16 the Property from 15101 Red Hill. The Receivership Entities defaulted on the loan  
17 from Loan Oak prior to my appointment.

18 3. Loan Oak filed an action in Orange County Superior Court and  
19 obtained an order appointing a receiver on the same day I was appointed in this  
20 action (August 3, 2009). The state court action is enjoined and restrained under the  
21 Temporary Restraining Order and Preliminary Injunction issued by the Court.

22 4. My preliminary investigation indicates that the current market value of  
23 the Property is approximately the same as, or only marginally higher than the  
24 amounts owed to Loan Oak in principal and accrued interest. I am currently in  
25 discussions with Loan Oak and will file a motion or stipulation with the Court with  
26 my recommended disposition for the Property in the near future. Interest on the  
27 loan from Loan Oak accrues at the rate of approximately \$155,000 per month. It is  
28

1 critical, therefore, that the Property be disposed of, either by sale or agreement with  
2 Loan Oak, as soon as reasonably practicable.

3 5. The Receivership Entities have furniture, fixtures and equipment  
4 located at the Property ("Personal Property").

5 6. Attached hereto as Exhibit A is a proposed agreement with auctioneer  
6 Tranzon Asset Strategies ("Tranzon") to auction the Personal Property ("Auctioneer  
7 Agreement"). The auction will be conducted at the Property.

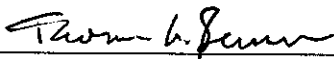
8 7. In my extensive experience as a state court and federal court receiver, I  
9 have worked with many auctioneers, and with their assistance, conducted dozens of  
10 auctions of personal property of the same general types involved here. I understand  
11 the local auctioneer industry, and the rates charged by qualified auctioneers.

12 8. Under the proposed Auctioneer Agreement, Tranzon will be  
13 reimbursed its costs for advertising and conducting the auction from the proceeds of  
14 sale (estimated at \$9,735), and will be paid a 10% premium from the buyers (15% if  
15 the buyers pay by credit card). These terms are consistent with the fees and  
16 commissions charged by similarly qualified and experienced auctioneers in  
17 Southern California.

18 9. Although exact values of the Personal Property are not known, I do not  
19 anticipate a large net recovery from the auction.

20 I declare under penalty of perjury that the foregoing is true and correct.

21 Executed on November 25, 2009, at Irvine, California.

22  
23   
24 \_\_\_\_\_  
25 Thomas A. Seaman  
26  
27  
28

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*Proposal for Auction Services prepared exclusively for...*

*Presented to:*

**Thomas Seaman  
Receiver**

*In the matter of*

Medical Capital Holdings, Inc.  
15101 Red Hill Ave, Tustin, CA

*Prepared by:*

Mike Walters, President

**tranzon**  
ASSET STRATEGIES  
9834 Research Dr., Suite 150  
Irvine, CA 92618  
949.727.9011  
[www.tranzon.com](http://www.tranzon.com)

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Exhibit

A

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**AT- A-GLANCE**

**Assets To Be Sold:** Office F,F&E and Artwork

**Sale Site:** 15101 Red Hill Ave  
Tustin, CA 92780

**Sale Strategy:** Offering at an on-line auction in piecemeal directed towards users, dealers and distributors.

**Marketing Strategy:** Los Angeles Times and Orange County Register. Direct mail to targeted market segment using in-house buyer relations, buyer list and a purchased list of buyer prospects.

**Fee Structure:** 10%-15% Buyers' Premium surcharged to auction purchasers

**Sale Costs:** Estimated at \$9,735.00

**Timeline:** Auction within 30 days of engagement

## **SALE STRATEGY**

### **On-Line Public Auction**

We will conduct an on-line auction, with the assets offered in piecemeal. Marketing for the auction will begin 3 weeks prior to the selected auction date.

## **MARKETING STRATEGY**

Local and metropolitan markets will be reached through ads in the Los Angeles Times and Orange County Register. In addition, ads will be placed on various industry websites and we will implement the following marketing methods to promote the auction.

### **Direct Mail**

A direct mail campaign will be used, sending out professionally designed brochures directed towards Tranzon's in-house list of past buyers, a purchased list of users and dealers, as well as wholesalers and distributors will supplement the list.

### **Internet Marketing**

Tranzon maintains an in-house database of buyer e-mail addresses. These contacts are notified via broadcast of upcoming sale information and are provided asset listings as requested when available. We also use a variety of online sites to promote the sale through a combination of classified listings and/or banner ads. The sale will also be posted to such auction websites such as the California State Auctioneers Association, Southern California Auctioneers Association, National Auctioneers Association and the Internet Auction List site.

### **Internet Presence**

The Tranzon.com website receives approximately 85,000 hits daily. With nearly 1,500 auctions promoted by Tranzon companies each year, buyers of a great variety of assets have come to know and rely upon tranzon.com as a reliable source of quality auction sales.

Tranzon's website not only provides up-to-date sale information, but provides options view and download detailed sale information, including an auction catalog and asset photos. This information rich format provides customer conveniences, while allowing Tranzon to reduce costs of catalog mailings and buyer notifications.

### **Toll-Free Auction Hotline**

Tranzon publishes its Toll-Free Event Hotline in all advertisements and sale promotions. Available 24 hours a day, 7 days a week, this hotline

provides callers the opportunity to receive recorded information on a sale, receive faxed information on a sale, provide their address for receipt of a mail brochure or be connected to a live operator during business hours.

## **EVENT PLAN**

Tranzon proposes the following event plan, created to provide the Seller with the following benefits:

- A smooth sale process, by working cooperatively to accommodate client goals and objectives and through diligent client communications;
- Proper and accurate accounting for all assets;
- Client protection through the incorporation of effective sale terms and security.

### **Sale & Marketing Preparation**

Upon a signed agreement to proceed with the auction, Tranzon will schedule a planning meeting to coordinate the goals of our office staff, site team and all involved client representatives. Following the planning meeting, Tranzon staff will begin the on-site write-up and photography of assets for promotional materials and online presentation. This write-up will include a list of sale items, as well as an overall representation of the assets and project.

### **Site Team**

Tranzon will place a project supervisor at the job site to prepare and oversee all auction activities. Our supervisor can work with either a Tranzon supplied crew or client provided crew, based on availability.

### **Asset Preparation**

Tranzon's staff will "lot", or prepare, the assets for the sale. The lotting process involves the ordering of items for sale. Properly lotted, the auction will flow smoothly, allow similar items to run in succession, allow an auctioneer to move expediently and fluctuate between items of desire and those of less interest.

The lotting process includes the tagging and inventorying of sale items. Tags ensure accurate product identification for the sale and removal process, while the inventory list will serve as the basis for an auction catalog and for accounting functions.

### **Signage**

Professional, attractive and highly visible signage is used to direct buyers to the auction site. Signage is also used to identify parking, registration, accounting office, restrooms and the order of the auction.

**Inspection**

Inspection opportunities will be provided on the day prior to the auction. Inspections will be staffed with personnel to answer questions and to act as security.

**Catalogs**

Inspection attendees and buyers arriving on auction day will receive an auction catalog. This booklet not only provides a list of items for sale, but details sale procedures, terms and conditions of the sale, payment instructions and other pertinent information.

**Registration**

Bidders will be required to register on-line with a valid credit card. All sale terms have been prepared to alleviate post sale burdens (i.e. buyers' remorse) and to protect Tranzon and its clients from insurance and/or warranty claims.

**Payments**

Payments and deposits are accepted in the form of credit card or wire transfer only. Full payment must be received before a buyer will be permitted to remove any portion of their purchases.

**Checkout**

Tranzon does not allow the removal of auction items until the auction has concluded. This policy is maintained for several reasons: i) crew members most familiar with sale items are most helpful on the auction floor; ii) buyers given a reason to leave may do so; if items cannot be picked up, buyers may remain and continue to purchase; iii) the removal process can be a distraction to the auction.

A limited removal period will be provided, requiring buyers to schedule an appointment. Tranzon will encourage small quantity buyers to remove their purchases within the first day, leaving only large volume buyers for the days following. A "checker" will lead buyers to their purchased items, and will supervise the removal. As items are removed, checkers mark each buyer's invoice accordingly for proper tracking purposes.

Based on the terms signed at registration, buyers are held responsible for damage to persons or property during the removal process and hold harmless Tranzon and its clients.

**Auction Management**

Tranzon uses a proprietary software package to run all aspects of its sales. Designed to our specifications to accommodate our sales of over \$100,000,000 of assets and inventories over the past 7 years, it provides numerous benefits over those packages used by other firms.

**Cash Management**

All sales are processed through our proprietary software, ensuring up-to-date deposit information, efficient collection and accurate post sale



reconciliation. Invoices are generated in duplicate and include buyer information, lot numbers, item descriptions and quantities.

Sales tax is collected from buyers and remitted by Tranzon. All sales tax exempt buyers must provide adequate proof of exemption and sign a warranty of their exemption claim.

As funds are received throughout the auction, they will be deposited into a trust account specifically for sale revenues. Within 30 days following the completion of the sale and collection of sale revenues, Tranzon will provide a comprehensive sale report complete with payment of the net auction proceeds. This package will include the following:

- Marketing Summary
- Copies of Advertisements
- Copy of Brochure
- Auction Catalog
- Itemized Lot Reports
- Invoice Summaries
- Buyer List
- Breakdown Of Revenues, Costs, Fees And Net Returns
- Expense Invoices and Support Documentation

**FEE STRUCTURE AND SALE COSTS**

**Tranzon Compensation**

Tranzon shall charge and retain an industry standard buyer's premium of 10% on all items sold, assessed directly to the buyers. Credit card and on-line buyers will be charged 15% to cover the merchant fees.

**Marketing and Labor Expenses**

The following costs will be capped in our agreement and be supported by invoice:

Marketing and Labor Expenses                      \$9,735.00

All costs are passed on "AT COST", without surcharge. All agreed-upon expenses will be deducted from sale proceeds at settlement.

## TERMS OF SERVICE

### Title

Seller warrants and represents that it has have the right to convey free and clear title to the Property at the time of sale.

### Advertising

Tranzon shall be authorized to use the Subject Company's business name in any advertising placed by Tranzon.

### Insurance

Seller shall carry and maintain full property and liability insurance on the Property until the Property is delivered to purchasers and defend, indemnify and hold harmless Tranzon from any and all liability arising from injury to the property, person or other entities associated with the property occurring other than by the intentional wrongful act or negligence of Tranzon or persons employed by Tranzon.

### Facilities

Seller agrees to be solely responsible for rent or mortgage payments pertaining to the Sale Site, as well as utility charges pertaining to the Sale Site, during the Sale, as well as during Sale preparation and checkout (i.e. water, power, trash and telephone service). Tranzon shall be provided uninterrupted access to the Sale Site to facilitate proper sale preparation, conduct and property removal.

### Hazardous Waste

Seller agrees that in the event the Property or the Sale Site contain any environmental hazards, toxic waste or types of hazardous material in any form whatsoever, Tranzon shall not be responsible for its containment, storage or removal of such materials.

### Reserve Prices

The Sale will be for all of the Machinery and Equipment of Concrete Masonry Exteriors, Inc. and will be without limit and without reserve. Seller shall not bid at the Sale, nor allow anyone to bid on Seller's behalf unless Seller discloses such intent to Tranzon in writing prior to Sale, which shall constitute Seller's agreement to pay commissions due on any actual purchases made.

### Exclusivity

Seller shall grant Tranzon the right to be the sole party authorized to sell the Property bound by this Agreement.

### Payments

Tranzon is authorized to accept, as Seller's agent and at Seller's risk, cash, cashiers' checks, guaranteed checks, credit card and wire transfers, as payment for the Property sold.

**tranzon**

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**TERMS OF SERVICE**

**Distribution Priority**

All funds due Tranzon shall be deducted from the gross proceeds of sale and paid to Tranzon before any payment in satisfaction of any security interest, lien or encumbrance against the Property or the proceeds thereof.

**Seller Warranties**

Seller warrants that it has confirmed its legal right to: (i) sell the Property bound by this Agreement, (ii) conduct the Sale at the locations herein indicated, and (iii) conduct the Sale in accordance with all other terms and conditions of this Proposal. Seller agrees to hold harmless Tranzon and its principals from any and all claims or demands against Tranzon made on behalf of Seller or Seller's interest.

**AGREEMENT AND ACCEPTANCE:**

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name as Signed

## Red Hill Auction Proceeds

	Low Estimate	High Estimate
Projected Value of Red Hill Auction Items (Furniture, Fixtures, Equipment)	\$ 25,000.00	\$ 35,000.00
<b>Expenses:</b>		
Marketing and Labor	\$ 9,735.00	\$ 9,735.00
<b>Expected Proceeds to Receivership</b>	<b>\$ 15,265.00</b>	<b>\$ 25,265.00</b>

Note:

**Large Conference Table** will be offered with a reserve or not at all depending on Receiver's instructions.

Modular cubicles will most likely not sell due to weak market and age of cubicles.

**In order to eliminate confusion and possible liability, we must have former employees come and take their personal property from the building as it could get mixed up with auction items. This must happen before sending in the auction team.**